

By Senator Ring

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1 A bill to be entitled
2 An act relating to offenses against computer users;
3 amending s. 815.03, F.S.; defining the term "spyware";
4 amending s. 815.06, F.S.; providing that whoever
5 willfully, knowingly, and without authorization
6 introduces any computer contaminant, including
7 spyware, into any computer, computer system, computer
8 program, or computer network commits an offense
9 against computer users, a misdemeanor of the first
10 degree; providing enhanced criminal penalties under
11 certain circumstances; authorizing the Department of
12 Legal Affairs or a state attorney to file a civil
13 action for injunctive relief against any person or
14 group to restrain prohibited activities; authorizing a
15 court to award court costs and reasonable attorney's
16 fees to the prevailing party; permitting a court to
17 impose a civil penalty not to exceed a stated amount
18 for each offense against computer users; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (3) of section 815.03, Florida
24 Statutes, is amended, and subsection (12) is added to that
25 section, to read:

26 815.03 Definitions.—As used in this chapter, unless the
27 context clearly indicates otherwise:

28 (3) "Computer contaminant" means any set of computer
29 instructions designed to modify, damage, destroy, record, or

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30 transmit information within a computer, computer system, or
31 computer network without the intent or permission of the owner
32 of the information. The term includes, but is not limited to, a
33 group of computer instructions commonly called viruses or worms
34 which are self-replicating or self-propagating and which are
35 designed to contaminate other computer programs or computer
36 data; consume computer resources; modify, destroy, record, or
37 transmit data; or in some other fashion usurp the normal
38 operation of the computer, computer system, or computer network
39 and includes spyware.

40 (12) "Spyware" means computer instructions or software
41 installed into a computer, computer program, computer system, or
42 computer network which, without the informed consent of the
43 operator:

44 (a) Monitors the use of a computer, computer program,
45 computer system, or computer network.

46 (b) Allows a person or software to control the operator's
47 computer from another computer or electronic device.

48 Section 2. Subsections (1) and (2) of section 815.06,
49 Florida Statutes, are amended, present subsections (4), (5),
50 (6), and (7) of that section are redesignated as subsections
51 (5), (6), (7), and (8), respectively, and a new subsection (4)
52 is added to that section, to read:

53 815.06 Offenses against computer users.—

54 (1) Whoever willfully, knowingly, and without
55 authorization:

56 (a) Accesses or causes to be accessed any computer,
57 computer system, or computer network;

58 (b) Disrupts or denies or causes the denial of computer

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59 system services to an authorized user of such computer system
60 services, which, in whole or part, is owned by, under contract
61 to, or operated for, on behalf of, or in conjunction with
62 another;

63 (c) Destroys, takes, injures, or damages equipment or
64 supplies used or intended to be used in a computer, computer
65 system, or computer network;

66 (d) Destroys, injures, or damages any computer, computer
67 system, or computer network; or

68 (e) Introduces any computer contaminant or spyware into any
69 computer, computer system, or computer network,

70

71 commits an offense against computer users.

72 (2) (a) Except as provided in paragraphs (b) and (c),
73 whoever violates subsection (1) commits a misdemeanor ~~felony~~ of
74 the first ~~third~~ degree, punishable as provided in s. 775.082 or
75 by a fine not to exceed \$1,000, s. 775.083, or both s. 775.084.

76 (b) Whoever violates subsection (1) and:

77 1. Damages a computer, computer equipment, computer
78 supplies, a computer system, or a computer network, and the
79 monetary damage or loss incurred as a result of the violation is
80 \$5,000 or greater;

81 2. Commits the offense for the purpose of devising or
82 executing any scheme or artifice to defraud or obtain property;
83 or

84 3. Interrupts or impairs a governmental operation or public
85 communication, transportation, or supply of water, gas, or other
86 public service,

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88 commits a felony of the second degree, punishable as provided in
89 s. 775.082, s. 775.083, or s. 775.084.

90 (c) Whoever violates subsection (1) and the violation
91 endangers human life commits a felony of the first degree,
92 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

93 (4) The Department of Legal Affairs or a state attorney may
94 file a civil action on behalf of the people of this state for
95 injunctive relief against any person or group violating
96 subsection (1) to restrain the prohibited activity. The court
97 may award court costs and reasonable attorney's fees to the
98 prevailing party. The court may also impose a civil penalty not
99 to exceed \$10,000 for each violation of subsection (1).

100 Section 3. This act shall take effect July 1, 2009.